

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MATTERN & ASSOCIATES, LLC,

Plaintiff,

vs.

**T. & G. INDUSTRIES, INC.
DBA TGI OFFICE AUTOMATIONS,**

Defendant.

Civil No. _____

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Mattern & Associates, LLC (“Mattern”) files this complaint against T. & G. Industries, Inc. dba TGI Office Automations (“TGI”) for copyright infringement, and alleges the following:

The Parties

1. Mattern is a Pennsylvania limited liability company with a place of business at 223 Wilmington/West Chester Pike, Suite 104, Chadds Ford, Pennsylvania 19317.

2. Upon information and belief, TGI is a New York corporation with a place of business at 120 3rd Street, Brooklyn, New York 11231.

Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 because the action arises under the laws of the United States, and under 28 U.S.C. § 1338(a) because it arises, in particular, under the Copyright Act, 17 U.S.C. § 101 *et seq.*

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), as this is the district in which the Defendant does business and in which a substantial part of the events or omissions giving rise to the complaint occurred.

Factual Background

5. Mattern is the sole owner of all right, title, and interest in an original work comprised of a proprietary request for proposal (RFP) that Mattern created in or about 2004 for use with vendors of support services. This work is the subject of U.S. Copyright Registration No. TX 7,810,908 (the “2004 Mattern RFP”), a copy of which is attached hereto as Exhibit A.

6. Mattern is also sole owner of all right, title, and interest in an original work comprised of a proprietary request for proposal (RFP) that Mattern created in or about 2014 for use with vendors of support services, which work is an updated and revised version of the 2004 Mattern RFP. This work is the subject of U.S. Copyright Registration No. TX 7,984,654 (the “2014 Mattern RFP”), a copy of which is attached hereto as Exhibit B.

7. In or about 2009, Mattern had a business relationship with Tri-State Office Solutions (“Tri-State”), and during the course of that relationship, Tri-State was given access to and a copy of a version of the 2004 Mattern RFP and/or the work that would become the subject of the 2014 Mattern RFP.

8. Upon information and belief, Tri-State was purchased by TGI in or about January of 2015, and Tri-State’s founder and owner is currently actively employed by TGI.

9. Upon information and belief, in or around September of 2015, TGI submitted a 20-page “Request for Proposal – Output Equipment” to Zarwin Baum DeVito Kaplan Toddy P.C., a law firm with a principal place of business at 1818 Market Street, 13th Floor, Philadelphia, Pennsylvania 19103-3638 (the “TGI RFP”), a copy of which is attached hereto as Exhibit C.

10. The TGI RFP was comprised of a substantially similar reproduction the 2014 Mattern RFP; most of the text has been copied verbatim, and the tables follow the same format

and organization as the 2014 Mattern RFP, as detailed in the comparison chart attached as Exhibit D.

Count I
Copyright Infringement

11. Mattern repeats and realleges the averments of Paragraphs 1 through 10 as if fully set forth herein.

12. Mattern's Copyright Registrations Nos. TX 7,810,908 and 7,984,654 are valid and subsisting.

13. The works represented by Copyright Registrations Nos. TX 7,810,908 and 7,984,654 are original works of authorship, fixed in a tangible medium of expression from which each can be perceived, reproduced, or otherwise communicated.

14. Upon information and belief, TGI had direct access to the works represented by Copyright Registration Nos. TX 7,810,908 and 7,984,654.

15. Upon information and belief, TGI has reproduced and distributed unauthorized copies of the work represented by Copyright Registrations Nos. TX 7,810,908 and 7,984,654, or substantially similar copies of the works represented by Copyright Registrations Nos. TX 7,810,908 and 7,984,654.

16. TGI has infringed Mattern's copyright by reproducing and distributing the work represented by Copyright Registrations Nos. TX 7,810,908 and 7,984,654, by preparing derivative works, and by distributing copies without license or authorization to do so.

17. TGI's copying and distribution of the work represented by Copyright Registrations Nos. TX 7,810,908 and 7,984,654 is willful and deliberate.

18. TGI's infringement of works represented by Copyright Registrations Nos. TX 7,810,908 and 7,984,654 has caused and will continue to cause harm to Mattern.

19. TGI's copyright infringement and the threat of continuing and future infringement have caused, and will continue to cause, repeated and irreparable injuries to Mattern.

20. Mattern's remedies at law are not adequate to fully compensate for the injuries imposed by TGI's infringement. Therefore, Mattern requires an injunction prohibiting TGI, its agents, employees, and other persons acting in conspiracy, concert, or participation with TGI from infringing Mattern's copyright in any manner, and from inducing, aiding, causing, or contributing to such infringement by others, in violation of 17 U.S.C. § 501.

21. As a direct and proximate result of TGI's infringement of Mattern's copyright, Mattern has also suffered certain monetary damages.

22. Mattern is entitled to recover from TGI such actual damages as it can prove and all of TGI's profits (including cost savings) gained by infringement, in accordance with 17 U.S.C. § 504(b).

Prayer for Relief

WHEREFORE, Plaintiff Mattern & Associates, LLC prays for relief in its favor as against Defendant T. & G. Industries, Inc. dba TGI Office Automations, as follows:

a. That defendant TGI, its officers, directors, shareholders, principals, agents, servants, employees, attorneys and related companies, and all persons in active concert or participation with one or more of them, be preliminarily and permanently enjoined and restrained from using the Mattern RFPs or any works that are substantially similar thereto or derived therefrom, pursuant to 17 U.S.C. § 502.

b. That this Court award Mattern damages adequate to compensate Mattern for TGI's acts of copyright infringement, pursuant to 17 U.S.C. § 504.

c. That Mattern be awarded its actual damages and lost profits in an amount to be

established at trial, pursuant to 17 U.S.C. § 504(b), or statutory damages for each act of infringement including a finding of willful infringement, pursuant to 17 U.S.C. § 504(c).

d. That TGI be required to account for any profits attributable to its infringing acts, in accordance with 17 U.S.C. § 504(b).

e. That Mattern be awarded the greater of three times TGI's profits or three times any damages sustained by Mattern and prejudgment interest.

f. That punitive damages be awarded to Mattern.

g. That TGI recall all copies of works infringing the Mattern RFPs and significant portions thereof, or derivations therefrom, and deliver them to Mattern for destruction, in accordance in 17 U.S.C. § 503.

h. That TGI be required to pay Mattern's costs of this action together with reasonable attorneys' fees and disbursements, pursuant to 17 U.S.C. § 505.

i. That Mattern be awarded such other and further relief as the Court may deem just and proper.

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DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, plaintiff Mattern & Associates, LLC, hereby demands a trial by jury on all issues so triable.

Respectfully Submitted,

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